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Dated: January 26, 2007

Signature:


(Roger A. Heppermann)

Docket No.: 30203/38232
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Evren Eryurek et al.

Application No.: 10/087,308

Confirmation No.: 2061

Filed: March 1, 2002

Art Unit: 2154

For: DATA SHARING IN A PROCESS PLANT

Examiner: J. Chang

**SUPPLEMENTAL PAPER FILED WITH RCE IN RESPONSE
TO THE ADVISORY ACTION DATED JANUARY 18, 2007**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This paper is being filed with a Request for Continued Examination (RCE) and in response to the Advisory Action mailed on January 18, 2007 in the above-identified application.

Applicants note that, in the examiner's response to applicant's argument regarding the availability of U.S. Patent Application Publication No. 2002/0067370 (the "Forney publication") provided in the Advisory Action, it appears that the examiner considers the entirety of the Forney publication as valid prior art because the "provisional application 60/232,733 [the "Forney provisional application"] includes the written description, drawings, and claims that adequately support the full scope of the subject matter regarded as the invention and claimed in the later filed U.S. application publications 2002/0067370." Applicants simply wish to point out that when applying the Forney publication as §102(e) prior art, in a case such as this where the application on which the Forney publication is based was not filed prior to the filing date of the current application, the examiner must show that the Forney provisional application supports the full scope of the *disclosure within the Forney publication upon which the examiner relies in making rejection in the current*

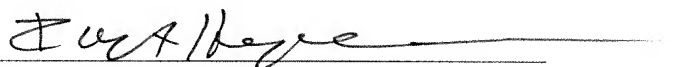
application.¹ Thus, it is irrelevant whether the Forney provisional application supports the scope of the claims in the Forney publication. Instead, the relevant test is whether the Forney provisional application fully supports (in a §112 sense) the portions of the Forney publication upon which the Examiner relies in making the rejection of the claims currently under review.

The examiner has not shown this support, nor do applicants believe that the examiner can show this support. In particular, the examiner appears to rely on paragraphs [0345]-[0347] of the Forney publication (and in particular to the discussion of third party data sources in these paragraphs) in rejecting the pending claims of the current application. Applicants have made a thorough review of the Forney provisional application, and can find no support for this particular disclosure. In fact, the applicants were unable to find any support for the use of third party applications in any manner whatsoever in the Forney provisional application, much less for third party applications implemented remotely from a process plant. Thus, if the examiner wishes to continue to use the Forney publication in any future rejection, the examiner is respectfully requested to particularly point out the specific disclosure in the Forney provisional application that the examiner is relying on for §112 support of the portions of the Forney publication that the examiner uses in the rejection.

In any event, the examiner is respectfully requested to contact the undersigned attorney if the examiner believes that a discussion regarding this case will assist in moving this case towards allowance.

Dated: January 26, 2007

Respectfully submitted,

By 

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¹ See MPEP 2136.03 ("The 35 U.S.C. 102(e) critical reference date of U.S. application publications . . . entitled to the benefit of the filing date of a provisional application under 35 U.S.C. 119(e) is the filing date of the provisional application with certain exceptions >if the provisional application(s) properly supports the subject matter *relied upon to make the rejection* in compliance with 35 U.S.C. 112, first paragraph<." Emphasis added.)